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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,270	07/10/2003	Michael Charles Grady	FA1106USNA	2476

23906 7590 09/15/2005

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LEGAL PATENT RECORDS CENTER
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WILMINGTON, DE 19805

EXAMINER

ASINOVSKY, OLGA

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/617,270	GRADY, MICHAEL CHARLES	
	Examiner	Art Unit	
	Olga Asinovsky	1711	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 August 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 25 August 2005. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-46.

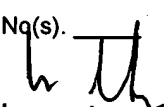
Claim(s) withdrawn from consideration: 47-64.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____


James J. Seidleck
 Supervisory Patent Examiner
 Technology Center 1700

5-20

Continuation of 3. NOTE: new claims 65-74 raise new issue that would require further consideration and new search, see attachment.

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Attachment

Applicant's Amendment after final rejection and applicant's Remarks of 08/25/2005 have been considered.

The argument is that the two stages polymerization in Prentice invention does not read on the Applicant's two stages polymerization. That in the first stage reaction the monomer(s) is/are polymerized to form a partially or substantially polymerized non-latex product, whereas in Prentice invention in the first reaction zone a partially polymerized latex monomer is polymerized to produce a latex product. It is not found persuasive because any one or more hybrid reactor monomers is/are claimed in a process claim 1. Any additive could be expected in the polymerization process. A latex product is readable in the present first polymerization stage. Also, a process in the first stage can include "one or more hybrid reactors," and "one or more batch reactors." Newly added claim 65 requires a limitation for a hybrid polymerization process in a single hybrid reactor and a batch polymerization process in a single batch reactor. For these reasons newly added claim 65 is not entered. Applicant argues that a high rate of monomer conversion is achieved in the present invention in stage 1 for being at least 30% (claims 12 and 33), whereas in Prentice the first stage polymerization does not exceed 12%. The examiner agrees, however, the rate conversion is depending on the process conditions. The statement "effective hybrid polymerization temperature" and sub-reflux polymerization gage pressures" are not sufficient to control the polymerization process for obtaining a high rate of monomer conversion. Newly added claims 66-71 and claims 61-62 require a high temperature condition. It is not clear that a polymerization process

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is still in an aqueous medium under high temperature range from 120 to 300 C, claim 61. For these reasons the examiner supported the restriction requirement in the final action mailed on 06/23/2005. The election was made without traverse to prosecute the invention of Group I, claims 1-46. Newly added claims 65-71 are not entered for the same reason as Group III, claims 60-64, because a high temperature polymerization could include a melt polymerization without an aqueous medium or a solvent.

The statement that "the aqueous phase" in Prentice is different from the aqueous medium in the present claim 3 is confusing. The examiner presumes that the difference is based on the polar and non-polar monomers being selected for the first polymerization stage.

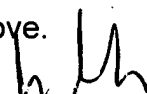
A chain transfer agent could be expected in the present claims. The temperature condition being 80 C is readable in Prentice invention in the first polymerization stage and a second polymerization stage.

The rejection under 35 U.S.C. 103(a) is for claims 1-46. It was a mistake to include claims 1-59.

Claims 47-64 are withdrawn from consideration from the final office action.

The limitation in a process for a single hybrid reactor and a batch polymerization process in a single batch reactor have not been presented before, these limitations would require further consideration. The high temperature polymerization in the hybrid polymerization stage and a high temperature polymerization in a batch polymerization reactor would require additional consideration and search.

Claims 65-74 are not entered for the reasons discussed above.



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